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September 30, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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SEP 30 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Submission in CC Docket No. 92-77

Dear Ms. Searcy:

On September 24, an ex parte submission was made by AT&T in this docket purporting to correct "erroneous" claims made by parties in this proceeding. In that letter, AT&T removed its request for confidential treatment of certain information. That information consisted of three charts "estimating" AT&T's share of the public communications marketplace.

In response to those estimates, and other claims made by AT&T in regard to this docket, the attached information is submitted on behalf of U.S. Long Distance and International Telecharge, Inc. This material restates prior positions in question-and-answer format and includes charts and graphs distributed by AT&T at other times.

If you have any questions regarding this information, please contact me.

Respectfully submitted,

*Danny E. Adams*  
Danny E. Adams

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## CIID CARD Q and A

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Q. What does "0+ in the public domain" really mean?**

- A. Very simply, "0+ in the public domain" means that any telephone calling card which operates by callers first dialing 0 plus the receiving telephone number must be open to validation and billing by all carriers.

**Q. Why should the FCC support such a policy?**

- A. 0+ in the public domain is necessary to protect consumers from the confusion and frustration caused by "proprietary" 0+ calling cards. "Proprietary" cards and 0+ dialing are mutually exclusive concepts. Proprietary calling cards are available only to one or a few carriers for validation and billing of interLATA calls. These cards are a routine part of the competitive marketplace *when used by callers who first dial into the carrier's network via an access code*. 0+ cards, however, are always automatically routed to the IXC presubscribed to the telephone. Using a proprietary card with 0+ dialing thus will only permit call completion if the presubscribed IXC also is the carrier that issued the calling card.

In the case of AT&T's CIID card, for example, AT&T permits the LECs and GTE Airfone to validate and bill to the card, but not other IXCs. A caller may use such an AT&T card to make a 0+ interLATA call, then, from a public telephone only if that phone is presubscribed to AT&T. In most cases, however, intraLATA calls carried by LECs may be completed by dialing 0+ even where another IXC is the presubscribed interLATA carrier. Consumers find this situation highly confusing. In an OSP report filed with the Commission in August, 1991, AT&T categorized 74,018 complaints and found that 63,270 (85 percent) were based on call blocking problems. (See Attachment 7.) While the blocking at issue there was not caused by CIID cards, this serves to illustrate the consumer concern raised by call blocking. AT&T's complaint reports for the months August 1991 through January 1992, the period of the CIID roll-out, show similar levels of consumer concern about blocked calls. These are contained in AT&T's March 23, 1992 OSP filing. By contrast, only 394 complaints (0.5 percent) in the August filing related to rates. (It is also noteworthy that of 138 complaints about service quality, 134 related to AT&T service.) The lesson seems clear — by far the biggest consumer concern in the operator services market is the ability to place the call simply and without the need for a degree in telephone engineering. A policy of "0+ in the public domain" ensures public confidence in public telecommunications.

**Q. How many carriers currently issue proprietary 0+ calling cards?**

- A. Only one — AT&T. Because proprietary 0+ calling cards only work successfully for 0+ interLATA calls where the presubscribed carrier is the same one as that which issued the card, only a carrier with a dominant share of presubscribed telephones can successfully issue such a card. Even the second largest IXC, with approximately 10 percent of presubscribed public telephones, could not find consumer acceptance of a 0+ proprietary card — the card simply would not work for 0+ dialing from 90 percent of public telephones.

AT&T has used this advantage as a strong competitive tool. In marketing literature, AT&T points out to consumers that AT&T has 75 percent of presubscribed public telephones, 75 percent of all hotels, "virtually all" the major hotel chains, 80 of the top 100 airports, and more than 700 major cities. AT&T also touts its advantage as the only IXC card which allows both interLATA and intraLATA calling with the same billing format. (See Attachment 6.)

**Q: AT&T says that its share of the calling card market is roughly equal to its share of the overall interexchange market. Doesn't this prove that AT&T has no more monopoly power in "0+" services than it enjoys in the "1+" market?**

- A: AT&T's share of the calling card market is estimated, since other carriers have not publicly reported the volume of their calling card traffic. However, AT&T's recent *ex parte* estimate that it carries 64 percent of calling card minutes strikes us as far too low in light of the fact that AT&T has issued 64 percent of all calling cards issued by IXCs (according to the Yankee Group — see Attachment 1). Since AT&T cards are "0+" while all others must be accessed through 950 or 1-800 access codes, and it is no secret that AT&T has captured a disproportionate number of high volume users, we would expect AT&T's share of the calling card minutes of use to far exceed its share of the cards issued.

In any event, AT&T's own estimates provide solid evidence of its market power in the calling card area. AT&T filed an *ex parte* in this docket last week (see Attachment 2) which shows that AT&T's share of calling card minutes declined steadily from 1Q 1987 to 1Q 1991 by an average of approximately 4 percent annually. But AT&T's share *increased by 5 percent* between 1Q 1991 and 1Q 1992. Remarkably, CIID card distribution began in early 1991, with about half of all such cards disseminated by year end 1991. The CIID card probably is responsible in large measure for this unprecedented AT&T success in recapturing market share.

**Q: AT&T also claims that "only" 35 percent of the industry's card minutes of use are billed to AT&T's CIID card (see Attachment 3). Why would this have such a drastic effect on competitive OSPs?**

- A: AT&T's figures are grossly misleading. The figures included in Attachment 3 reflect minutes of use *during* 4Q 1991. The fact is that AT&T's CIID card roll-out was still underway at that time. Cardholders were told that their old

cards should be discarded by January 1, 1992. As a consequence, AT&T projected that the use of 10288 to "dial-around" the presubscribed OSP would skyrocket during the first half of 1992 (see Attachment 4). In fact, the dial-around rates experienced by many OSPs have been much lower than AT&T's projections. As a consequence, the 35 percent of calls made using CIID cards are frequently dialed as 0+ calls, flooding AT&T's competitors with expenses they cannot recoup.

**Q: AT&T says that "only" 68 percent of public lines are presubscribed to it (see Attachment 5), proving that it has not used its market power to remonopolize the aggregator market. How do you respond?**

**A:** First, it must be realized that not all "public" lines are created equal. AT&T has successfully focused its marketing efforts on "cherry-picking" the public lines which account for the vast proportion of 0+ calling. For example, AT&T claims that 75 percent of all hotels, including "virtually all of the major hotel chains," have contracted with AT&T for 0+ services. The same is true of 75 percent of all public payphones, 80 percent of airports and over 700 "major cities" (see Attachment 6).

Moreover, AT&T's statistics reflect the situation as it existed at the beginning of the year. The real question is whether AT&T has been able to use market power derived from the CIID card to increase its share of presubscribed lines. Our personal experience tells us that AT&T has done so successfully. But to demonstrate the matter statistically either way, AT&T would have to supply more recent market share information which could be compared to its share at the beginning of 1992.

**Q: AT&T claims that, even under the recent OSP industry "rate cap" proposal, consumers would not be charged the same rate as AT&T since its competitors did not offer to provide Optional Calling Plan ("OCP") or similar discounts to qualifying cardholders. Is this true?**

**A:** This issue is a "red herring." OCP discounts amount to only a few cents per call on average. Certainly a caller who is charged AT&T's standard tariffed rates cannot claim to have been "gouged."

In any event, the OSPs have not offered to pass along OCP discounts because it is not technically possible for them to do so. The identity of OCP plan participants is proprietary information which AT&T does not share with anyone. Moreover, OCP discounts are based upon calling volumes — OSPs have no way of knowing what volume of AT&T calls are placed by cardholders. Finally, any public interest problem in a small percentage of users not receiving a small discount on certain 0+ dialed calls (10288 access will give the discount for all calls) is far outweighed by the problem caused by all CIID cardholders being unable to use their card for 0+ dialing from 25 percent of public telephones.

**Q. Has AT&T's issuance of 40 million proprietary 0+ cards harmed competition?**

A. Yes, very substantially. In an *ex parte* filed with the Commission on September 24, 1992, AT&T admitted that its market share of calling card minutes increased by five percentage points from the first quarter of 1991 to the first quarter of 1992. And those figures are based on very early periods of CIID card issuance. In other materials, AT&T projected that the percentage of "dial around" calls (i.e., 10288 calls) would increase from 25 percent of total calls in January 1992 to 50 percent of calls by June 1992. (Attachment 4.) Obviously, then, even AT&T's admitted five percent market share increase in early 1992 appears to understate the impact at this time.

Another important factor is the increased costs AT&T's card imposes on its competitors, who each day receive tens of thousands of calls they cannot process. Increased access charges, switch capacity, network usage and operator time all are a direct result of the presence of 0+ proprietary cards. Some competitors estimate that as many as one-third of all incoming calls now are unavailable for validation or billing.

**Q. What is the solution to these problems?**

A. A policy of 0+ in the public domain which prohibits proprietary 0+ calling cards. Carriers issuing cards which operate by a 0+ dialing format should be required to permit all carriers to validate and bill on the cards, as the LECs now do for their 0+ calling cards. This policy would ensure that consumers are freed from the need to identify the presubscribed IXC or determine whether their call is interLATA or intraLATA. Such an approach also would end the unfair imposition of costs on AT&T's competitors.

**Q. Would a campaign of consumer education to encourage 10288 dialing be enough to solve the problem?**

A. No. With AT&T's massive share of public telephone presubscriptions, 0+ dialing will continue to work for nearly all intraLATA calls and two-thirds or more of interLATA calls. Consumers will only be further confused by instructions to dial 10288 when 0+ still works for most calls. Moreover, AT&T has no incentive to mount a successful consumer education program. In fact, AT&T actually would receive competitive benefits if it fails. A much better solution is to open the validation database and let consumers dial 0+ from all locations.

**Q. If a "0+ in the public domain" policy is adopted, how would the validation and billing arrangements work?**

A. Basically, the same way that AT&T now permits the LECs to bill intraLATA calls on its CIID card. An electronic check with the AT&T database would give a "deny/accept" response for validation of the card's authenticity and creditworthiness. AT&T could then purchase the receivables (the other IXCs' call records) and bill them with AT&T carried calls. AT&T would charge a fee for validation (e.g., 3¢ per query) and a fee for billing services

(e.g., 10¢ per call) and would purchase the receivables at a discount from face value (e.g., 95%) to cover unbillable and uncollectible calls. Alternatively, AT&T could provide "translations" of CIID card numbers into billing telephone numbers to permit LECs to bill the calls.

**Q. *Won't consumers still be confused even under this plan?***

- A. No. Under the proposed approach, consumers will be able to reach AT&T directly by dialing 10288 or can use 0+ and call via the presubscribed carrier at AT&T rates or less. (Of course, based on its current market share, a large majority of public telephone calls find AT&T to be the presubscribed carrier anyway.) The billing for such calls would be essentially the same procedure as is now used by AT&T for LEC-carried calls billed to the CIID calling cards. We are not aware of any evidence that consumers find such a billing arrangement confusing.

**Q. *Doesn't this plan infringe on AT&T's property rights in the database?***

- A. No. First, the core of the database comes from AT&T's issuance of AT&T calling cards to Bell System customers at the time of divestiture, and thus should not be viewed as AT&T's property. Second, AT&T would be compensated for all costs incurred in making validation and billing and collection available. Third, this obligation can be fulfilled in a way which protects any proprietary data from disclosure. Fourth, property rights have always been subject to public obligations in telecommunications. For example, the Commission recently ordered payphone owners to permit any caller to use their pay telephone to reach any carrier. This payphone "unblocking" limits the owner's right to choose the presubscribed IXC and greatly reduces the financial rewards received from the telephone. The public interest in unblocking, however, was found to outweigh the property rights of the telephone owner. Similarly, the public interest in a "0+ in the public domain" policy overrides any claimed AT&T property rights in the database.

**Q. *Does this plan require new or excessive regulation?***

- A. Not really. The proposal requires the Commission to continue its prior practice of establishing market rules designed to ensure that the operator services market becomes a truly competitive one, thereby obviating the need for more intrusive regulations in the future. Just as the Commission previously required aggregators to unblock access codes to provide end user choice, this plan "unblocks" the CIID card to preserve the ability of consumers to choose "0+" dialing.

Moreover, to the extent any "regulation" is involved, it is designed solely to protect the consumer's right to use "0+" dialing and receive the rates which they may expect. It is not heavy-handed intrusion into the marketplace.

**Q. But doesn't this plan call for excessive FCC involvement in negotiating the AT&T-IXC arrangements at a time when the Commission is seeking to reduce regulatory intrusions?**

A. No. While the agency will need to oversee the contract discussions between AT&T and 8-10 entities (other than MCI, Sprint and ITI, most OSPs use one of three clearinghouses) to ensure a prompt and reasonable conclusion, this approach is the least regulatory of the available options. The contracts should essentially be the same in each case. AT&T already has entered into Mutual Honoring Agreements with hundreds of LECs; these MHAs could serve as the model for the handful of IXC agreements required. Any significant deviations in price or service should be justified by the party advocating them. Without this arrangement, AT&T's dominance will continue or increase, removing the chance for future deregulatory actions. Moreover, the Commission will find it difficult to report to Congress that no further regulation is necessary if the CIID card issues continue to permit AT&T to block 0+ access to other carriers and consumers remain confused and frustrated. By agreeing to some short term involvement now, the Commission will be preparing the marketplace for future deregulation.

**Q. Would you impose your open validation database requirement on all IXCs or just AT&T?**

A. Only the dominant carrier can issue a 0+ proprietary card that achieves consumer acceptance. Even MCI and Sprint continue to use access code dialing for their cards. Thus, because the problem stems from AT&T's dominance, the solution need apply only to the dominant carrier.

**Q. Does the Commission have the proper jurisdiction to require AT&T to open its validation database?**

A. Yes. The Commission recently found that validation services provided by LECs are Title II common carrier services and must be tariffed. This ruling was based on the LEC's monopoly power resulting from their control of local bottleneck facilities. Similarly, AT&T (1) is using a database originally derived from its ownership of the RBOCs and (2) retains dominant market power in operator-assisted long distance calling (as stated in the *AT&T Dominance* proceeding).

The Commission also recently acknowledged that validation is without meaning unless billing information also is provided. Without questioning its 1986 decision to detariff billing and collection services, the Commission proposed to require LECs to provide billing name and address ("BNA") along with their validation services. At the option of the LECs, a full billing and collection service could be deemed to be sufficient to fulfill the BNA obligation. The jurisdictional authority for this requirement can be found in (1) Title II powers over BNA, (2) "ancillary" jurisdiction associated with the validation obligations, or (3) Title I authority over billing and collection activity (expressly reserved in the *Detariffing* order).

These same jurisdictional principles apply to AT&T's provision of billing information and services. As part of its validation requirement, AT&T

should be directed to supply information enabling carriers to translate CIID card numbers into billing telephone numbers; this is the equivalent of BNA. AT&T could fulfill this obligation by the alternative means of simply purchasing and billing the calls itself. This latter alternative will protect AT&T's customer data. Such FCC orders are jurisdictionally sound, as described above, and are necessary to protect consumers and preserve competition in the interstate telecommunications marketplace.

**Q. *Doesn't this plan require the Commission to re-regulate billing and collection services?***

A. No. We are asking that AT&T make available adequate information for all carriers to bill "0+" CIID card calls. This amounts to the information necessary to translate the CIID number into a customer name and address. AT&T could provide this information directly to IXC's, make it available to the LEC's who already bill such calls or -- at AT&T's option -- bill the calls itself. Thus, the proposed plan requires AT&T to make billing information available, not to actually provide billing and collection services.

**Q. *Does the Commission have the power to impose an AT&T rate cap on AT&T's competitors?***

A. The "rate cap" proposal would be part of AT&T's obligation to provide billing information services on its CIID cards. This requirement would be limited to calls rated at or below AT&T's charges. The proposal thus is based on the Commission's power over the dominant carrier and would not impose a rate requirement directly on non-dominant companies.

**Q. *Rather than open its validation database, won't AT&T withdraw all its CIID cards and require its customers to use the less convenient 1-800 access method?***

A. While that decision obviously is up to AT&T, we do not believe AT&T would take this action. AT&T has stated repeatedly in the Commission's proceedings that 10XXX access is superior and is the only form of access (other than 0+) which permits it to give its customers the best service quality and features. It also has indicated on numerous occasions that conversion to 1-800 or 950 access would be excessively costly. We do not believe that AT&T would ignore these factors simply to defy the Commission.

In the final analysis, however, this threat should not influence the debate in any event. Issuance or withdrawal of *any* service is AT&T's prerogative in the first instance and should not be used to pressure FCC deliberations. Moreover, withdrawal of the CIID card from 0+ usage would eliminate the consumer and competitive problems which issuance of the card has created. Consumers seeking the convenience of 0+ dialing still would have available the LEC-issued calling cards.

**Exhibit 4**  
**Calling Cards on Issue (1990)**

Source: the Yankee Group, April 1990

Issuing DXC	Number of cards issued	Issuing LEC	Number of cards issued
AT&T	40 million	Ameritech	8 million
MCI	10 million	Bell Atlantic	4 million
US Sprint	11 million	BellSouth	9 million
Other DXCs	1 million	NYNEX	4 million
		Pacific Telesis	3 million
		SW Bell	6 million
		US West	3 million
		Other LEC	1 million
<b>DXC Total</b>	<b>62 million</b>	<b>LEC Total</b>	<b>43 million</b>

# Docket No. 92 - 77

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## Interstate Traffic Carried by AT&T (%)

	1987	1988	1989	1990	1991	1992
<i>Total Minutes*</i>	<b>73</b>	<b>70</b>	<b>67</b>	<b>63</b>	<b>63</b>	<b>63</b>
<i>Card Minutes</i>	<b>74</b>	<b>71</b>	<b>68</b>	<b>59</b>	<b>59</b>	<b>64</b>

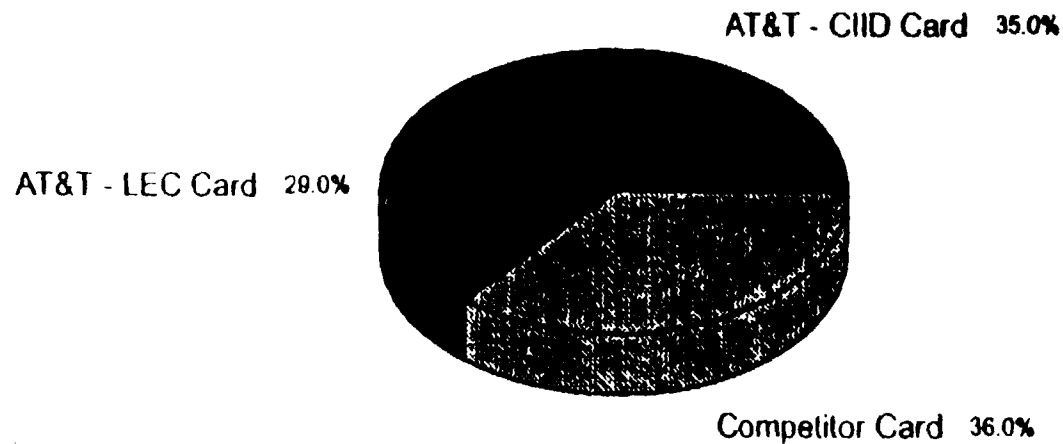
\* AT&T Interstate Minutes

FCC Quarterly Report, 1Q92

# Docket No. 92 - 77

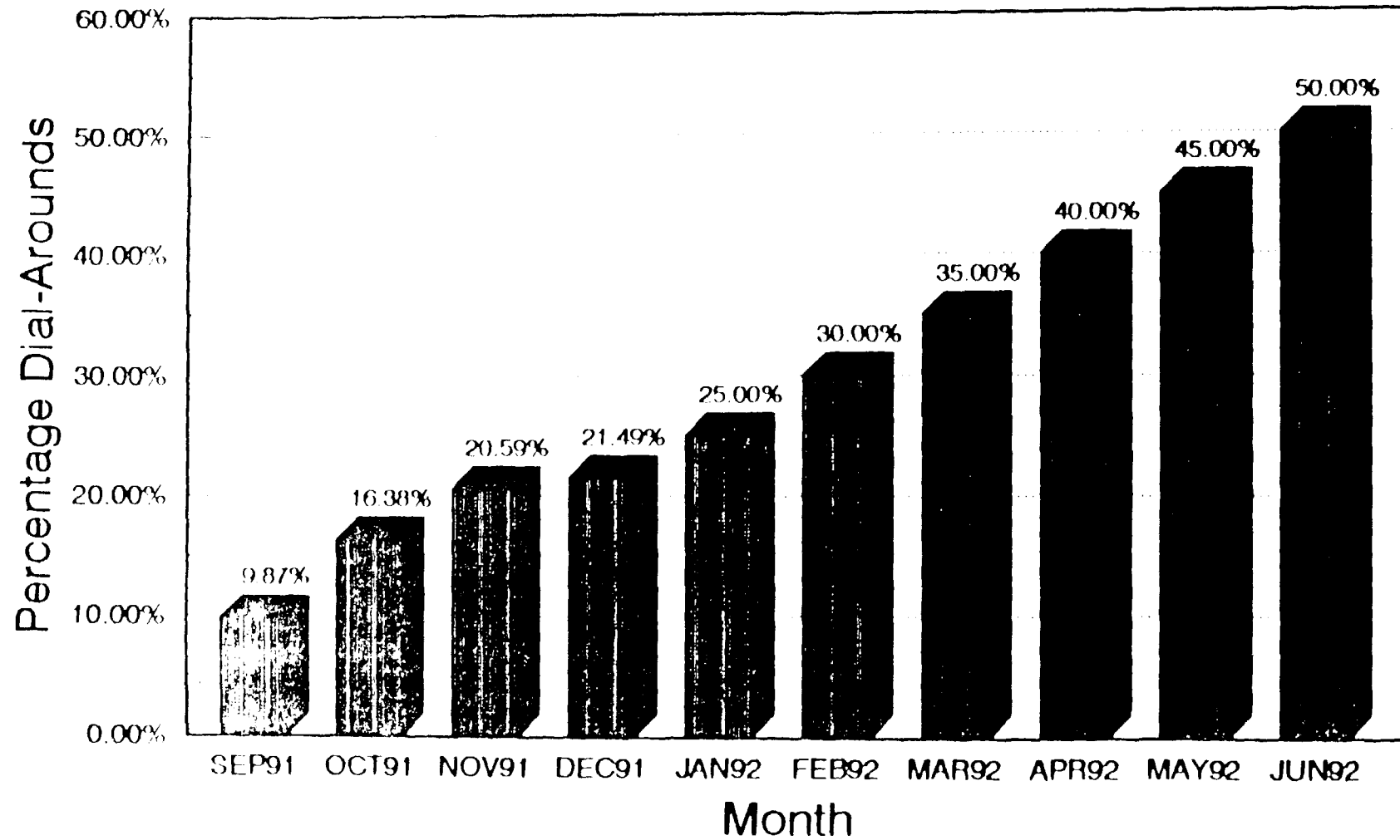
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- Percentage of Industry Calling Card traffic carried by AT&T
  - ▶ Only 35% of the industry's card minutes of use were billed to AT&T's proprietary calling card.



Interstate Card Minutes of Use  
4th Qtr 1991

## AT&T Analysis of Historical Impact and Future Projection of Dial-Around Traffic

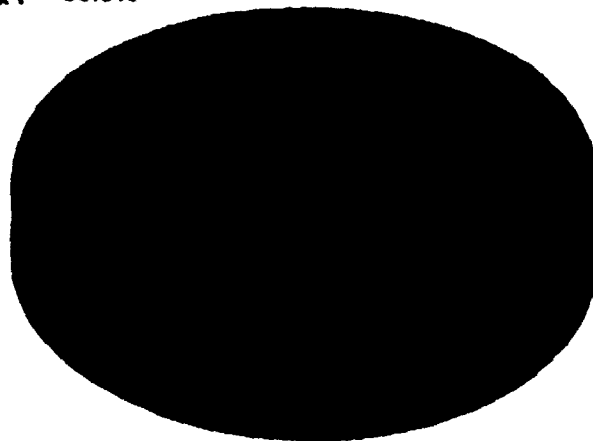


## Docket No. 92 - 77

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### ■ Percentage of Public lines Presubscribed to AT&T

AT&T 68.0%



Competitor 32.0%

Percent Station PIC  
1st Qtr 1992



## AT&T CALLING CARD

- . AT&T CAN SOLVE ALL OF YOUR BILLING NEEDS WITH ONE OF MANY CALLING CARD PROGRAMS
- . AT&T CARD IS THE "MOST CONTROLLABLE CARD"
- . TAKE YOUR 1+ DISCOUNT PLAN ON THE ROAD
- . AT&T IS THE LEADER IN ACCESSIBILITY AWAY FROM HOME, THE OFFICE AND THE CAR:
  - 3 OUT OF 4 PUBLIC PHONES ARE SELECTED TO AT&T FOR DIRECT 0+ DIALING ACCESS
  - 3 OUT OF 4 HOTELS USE AT&T FOR 0+ DIALING
  - VIRTUALLY ALL OF THE MAJOR HOTEL CHAINS HOLD CONTRACTS WITH AT&T FOR 0+ SERVICES
  - 80 OF THE TOP 100 AIRPORTS USE AT&T FOR THEIR PUBLIC TELEPHONES
  - CURRENTLY MORE THAN 700 MAJOR CITIES CONTRACT THEIR PUBLIC PHONES TO AT&T
- . WITH ONE YOU CAN MAKE INTER AND INTRA LATA CALLS WITH NO DIFFERENCE IN BILLING FORMATS

**CONSUMER COMPLAINTS**

The following report represents total operator services complaints and call attempts received by AT&T between January 1, 1991, and April 30, 1991. Complaints include those received directly from consumers as well as complaints filed with the FCC and state regulatory commissions. Since the vast majority of complaints received by AT&T concern the actions of other carriers and aggregators, a separate category for these complaints is included in this report under the heading "Other Providers."

<b><u>CATEGORY</u></b>	<b><u>AT&amp;T</u></b>	<b><u>OTHER PROVIDERS</u></b>
<b>RATES CHARGED</b>	<b>192</b>	<b>202</b>
<b>BLOCKING ACCESS</b>	<b>55</b>	<b>63,215</b>
<b>CALL SPLASHING</b>	<b>0</b>	<b>89</b>
<b>CALL QUALITY</b>	<b>134</b>	<b>4</b>
<b>FAILURE TO COMPLY WITH STATUTORY/FCC REQUIREMENTS</b>	<b>55</b>	<b>1,003</b>
<b>ALL OTHERS</b>	<b><u>8,273</u></b>	<b><u>2,726</u></b>
<b>TOTAL COMPLAINTS</b>	<b>6,709</b>	<b>67,309</b>

**TOTAL CALL ATTEMPTS - AT&T: 847,002,000**